

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07  
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15  
USIA-06 ACDA-12 TRSE-00 /071 W  
-----107471 110223Z /63

R 101709Z JAN 78  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC 4655  
INFO USMISSION USBERLIN  
USMISSION USNATO  
AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS

C O N F I D E N T I A L BONN 00466

E.O. 11652: GDS  
TAGS: PGOV, AKB, BQG  
SUBJECT: REFERRAL OF CASE FROM BERLIN COURT TO FRG  
CONSTITUTIONAL COURT (FCC)

REFS: (A) USBER 3221  
(B) BONN 21055 AND PREVIOUS

BEGIN SUMMARY: THE FRG HAS CONFIRMED IN THE BONN GROUP  
THAT THE FCC HAS INDEFINITELY POSTPONED CONSIDERATION  
OF THE CASE REFERRED TO IT BY THE BERLIN LANDESSOZIAL-  
GERICHT. ASSURANCES WERE ALSO GIVEN THAT THE BONN  
GROUP WOULD BE INFORMED IF THE FCC GAVE ANY INDICATION  
THAT IT WAS PREPARING TO DEAL WITH THE BERLIN CASE  
DIRECTLY. END SUMMARY

1. AT THE JANUARY 4 BONN GROUP MEETING, FRENCH REP  
RICHARD SAID THAT HE HAD REPORTED TO PARIS THAT THE  
FCC HAD POSTPONED CONSIDERATION OF THE BERLIN CASE IN  
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THE EXPECTATION THAT A SIMILAR CASE BEFORE AN FRG  
COURT COULD SETTLE THE QUESTION OF PRINCIPLE INVOLVED  
WITHOUT MAKING NECESSARY AN FCC JUDGMENT ON THE BERLIN  
CASE ITSELF (REF B). SPEAKING ON INSTRUCTIONS, HE  
NOTED THAT THE CASE HAD CREATED CONSIDERABLE DIFFICULTIES  
IN PARIS. PARIS WANTED TO BE REASSURED THAT THE FCC  
WOULD NOT PRESENT THE ALLIES WITH A FAIT ACCOMPLI BY

RULING ON THE BERLIN CASE. HE ALSO ASKED THAT THE FRG INFORM THE ALLIES IN ADVANCE OF ANY POTENTIAL PROBLEMS RELATED TO BERLIN IN CONNECTION WITH THE CASE.

2. FRG REP VON BRAUNMUEHL REAFFIRMED THE INFORMATION HE HAD GIVEN THE BONN GROUP AT THE DECEMBER 20 MEETING. HE REPORTED THAT, IN THE LATEST DEVELOPMENT, THE MINISTRY OF LABOR HAD INFORMED THE FCC:

A) THAT THE THREE ALLIES HAD NOT YET TAKEN A POSITION ON THE REFERRAL OF THE BERLIN CASE TO THE FCC;  
AND

B) THAT THE STATE SOCIAL COURT IN DUSSELDORF WOULD SUBMIT A SIMILAR CASE IN JANUARY 1978 WHICH COULD PROVIDE THE BASIS FOR A DECISION BY THE FCC ON THE PRINCIPLE INVOLVED IN THE TWO CASES. UNDER THOSE CIRCUMSTANCES, HE SAID, THE FCC HAD AGREED TO AN INDEFINITE POSTPONEMENT OF THE DEADLINE FOR SUBMISSION OF THE FEDERAL GOVERNMENT'S OPINION TO THE FCC AND THUS, OF THE FCC'S CONSIDERATION OF THE CASE.

FINALLY, HE PROMISED TO KEEP THE BONN GROUP INFORMED ABOUT DEVELOPMENTS IN THE CASE, ESPECIALLY ABOUT ANY INDICATIONS THAT QUESTIONS DIRECTLY CONCERNING BERLIN MIGHT ARISE AGAIN.  
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## Message Attributes

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**Concepts:** COURTS  
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**Decaption Note:**  
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**Disposition Case Number:** n/a  
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**Disposition Date:** 20 Mar 2014  
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**Subject:** REFERRAL OF CASE FROM BERLIN COURT TO FRG CONSTITUTIONAL COURT (FCC)  
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**To:** STATE  
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